

own express language, is only legally effective for customers who have selected SNET as their long distance carrier. In promoting PIC freezes, SNET is clearly motivated by a desire to freeze in place its own long distance customers, and not to protect customers generally against slamming. SNET's targeted advertising campaign works in conjunction with other discriminatory and anti-competitive measures. SNET sales agents, for example, routinely encourage customers to authorize PIC freezes, but generally only after the customer has selected SNET long-distance as part of their package.

Furthermore, before potential customers select SNET, SNET sales representatives have discriminatory access to information about a customer's PIC freeze, while competing interexchange carriers do not. SNET abuses this monopoly access. Thus, a SNET representative can ensure that a customer consents to an override of his PIC freeze at the same time that he requests to switch from a competing carrier to SNET. A competing carrier, deprived of the same information, does not learn from SNET that a PIC freeze prevents the change until after it has utilized third-party verification and submitted the order to SNET.

Meanwhile, available procedures to remove PIC freezes are cumbersome and ineffective. Once MCI learns of sales that have been rejected because of PIC freezes, it must engage customer service personnel to try to have the freezes removed by calling the new customers and setting up three-way conference calls with SNET representatives. Clearly, if MCI had known that a customer's PIC was frozen during the initial sales call, when SNET sales representatives have this information, MCI could do what SNET presumably does -- conduct a three way conference during the initial telemarketing solicitation when the service was successfully sold.

This discrimination ensures that only an incumbent LEC can wield PIC freezes as a shield against competition, because the incumbent LEC has sole control of the mechanism for creating and removing PIC freezes, as well as sole control of the information as to which customers have PIC freezes.

MCI submits that the PIC freeze practices described above constitute a violation of Section 201(b) of the Communications Act of 1934, as amended, which requires that all carrier practices be "just and reasonable." Incumbent LECs are exploiting their local monopoly power to insulate themselves from interexchange service competition and from potential local competition by impeding the ability of consumers to move easily from their affiliated companies to other carriers. PIC freezing also results in substantial confusion among consumers at a time when significant and complex telecommunications changes are occurring and will continue to occur. Public interest factors require, then, that the Commission take action to eliminate this confusion whenever it arises as a result of carrier undertakings designed to fuel such confusion or which, in fact, result in confusion.

For these reasons, the Commission should adopt a rule that would read essentially as follows:

§64.1200 Requirements Pertaining To PIC Freezes and Carrier Restrictions

(a) Carriers are prohibited from engaging in any practices, including soliciting, marketing, or employing PIC freeze or other carrier restrictions, that have the purpose or effect of impeding competition or unreasonably restricting consumer choice.

(b) Any carrier or its agent permitting consumers to affect, via a PIC freeze or other mechanism, the normal procedures for selecting a change in carrier, must:

(1) In no way or manner acquire the PIC freeze through consumer solicitations that are deceptive or misleading;

(2) In no way or manner favor through the solicitations referred to in (b)(1). above, any affiliated carrier,

(3) Furnish upon reasonable request and on a reasonable basis, to any requesting carrier, the name and telephone number of all consumers who have in effect a PIC freeze and /or local, intraLATA or interLATA carrier restrictions on their accounts. If requested, this information must be furnished electronically or through an automated feed and with updates on a daily basis; and

(4) Co-operate with other carriers and affected consumers in any reasonable manner to remove an existing PIC freeze or carrier restriction so that a new carrier can replace a current carrier as promptly as possible. This co-operation must include offering the functionality to conduct a three-way telephone conference between the consumer, the current carrier, and the new carrier; the receipt and efficient processing of written or oral consumer requests to unfreeze the PIC or to remove the carrier restriction; or any other reasonable method designed to implement promptly the consumer's right to choose from among competing carriers. Third party verification of a consumer's request to switch carriers in compliance with Section 64.1100 of the Commission's rules is sufficient to remove a PIC freeze or carrier restriction.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

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Its Attorneys

Dated: March 18, 1997



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET N.W.
WASHINGTON, D.C. 20554

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Released: May 5, 1997

PETITION FOR RULEMAKING FILED

File No. CCB/CPD 97-19

Pleading Cycle Established

(RM-9085)

COMMENTS: June 4, 1997

REPLY COMMENTS: June 19, 1997

On March 18, 1997, MCI Telecommunications Corporation (MCI) filed a petition for rulemaking pursuant to Section 1.401 of the Commission's Rules, 47 C.F.R. §1.401. In its petition, MCI requests that the Commission institute a rulemaking to regulate the solicitation, by any local exchange carrier or its agent, of primary interexchange carrier (PIC) "freezes" or other carrier restrictions on a consumer's ability to switch its choice of interexchange (interLATA and intraLATA toll) and local exchange carrier.

MCI defines a "PIC freeze" as a "product or service offered by a local exchange carrier [LEC] to its customers, whereby the LEC promises not to change or modify the customer's service without direct instruction from the customer himself." The typical method of executing customer switches of interexchange service, as described by MCI, includes the long-distance carrier: making the sale to the customer; obtaining the customer's verbal or written authorization to switch the service; verifying the sale through third party verification; and acting as the agent of the customer and carrying out the authorization by carrier-to-carrier electronic feed to the LEC to accomplish the switch. According to MCI, a PIC freeze requires the customer to contact the LEC directly, either orally or in writing, to switch its choice of interexchange carrier (IXC), and therefore prohibits an IXC from acting as the agent of a customer. MCI maintains that, although the LECs claim that they offer this service to prevent "slamming" (i.e., the unauthorized change of a customer's preferred IXC), PIC freezes are a strategic tool to impede effective competition by shielding a particular LEC's customer

base from competitors.

Pursuant to Section 1.405 of the Commission's Rules, 47 C.F.R. § 1.405, interested parties may file a statement in support of, or in opposition to, this petition not later than June 4, 1997. Replies must be filed by June 19, 1997. When filing comments and/or replies, please refer to the following internal file number: CCB/CPD 97-19.

An original and four copies of all comments and replies must be filed in accordance with Section 1.51(c) of the Commission's Rules, 47 C.F.R. § 1.51(c). In addition, one copy of each pleading must be filed with International Transcription Services (ITS), the Commission's duplicating contractor, at 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, and one copy with the Chief, Competitive Pricing Division, Common Carrier Bureau, Room 518, 1919 M Street, N.W., Washington, D.C. 20554.

For further information, contact William Bailey, Competitive Pricing Division, Common Carrier Bureau, (202) 418-1530.

-FCC-

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:

Policies and Rules Pertaining to
Local Exchange Carrier "Freezes"
on Consumer Choices of Primary
Local Exchange or Interexchange
Carriers

File No. CCB/CPD 97-19
RM-9085

SNET COMMENTS IN OPPOSITION TO MCI'S PETITION FOR RULEMAKING

The Southern New England Telephone Company (SNET) respectfully submits these Comments in opposition to the Petition for Rulemaking filed by MCI Telecommunications Corporation (MCI) on March 18, 1997.¹ In its Petition, MCI requests that the Federal Communications Commission (Commission) institute a rulemaking to regulate the solicitation, by any local exchange carrier (LEC) or its agent, of primary interexchange carrier (PIC) "freezes" or other carrier restrictions on a consumer's ability to switch its choice of interexchange and local exchange carrier.²

In these Comments, SNET argues that MCI's Petition is premature and should be dismissed. The Telecommunications Act of 1996,³ which declared illegal the unauthorized change of a customer's long distance carrier (otherwise known as "slamming"), mandates that the Commission establish rules necessary to protect

¹ FCC Public Notice released May 5, 1997, established that comments are due on June 4, 1997, and Reply Comments are due to be filed on June 19, 1997, File No. CCB/CPD 97-19, RM-9085.

² SNET generally denies the allegations which MCI levels at SNET in its Petition. SNET will not respond to MCI's specific allegations in these Comments, due to litigation between the two companies currently pending in federal court. MCI Telecommunications Corporation v. The Southern New England Telecommunications Corporation et al., No. 3:97 CV 00810 (AHN), Complaint, dated April 29, 1997.

³ Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. §§ 151 *et. seq.*) (1996 Act).

consumers from this illegal practice. Thus, the Commission should dismiss MCI's Petition and instead, should consider the issue of PIC freezes as part of its overall consideration of slamming issues pursuant to the Act. SNET also argues that, in any event, the rules proposed in MCI's Petition are unnecessary and should not be adopted by the Commission.

I. INTRODUCTION

Unauthorized PIC changes, known as "slamming," plague consumers throughout the country, including Connecticut. As of November 1996, slamming was the number one consumer complaint at the Commission's Common Carrier Bureau.⁴ In 1994, the Commission logged 3,301 slamming complaints, up from 1,817 the previous year.⁵ By July of 1995, monthly slamming complaints were up threefold from the previous year.⁶ The year ended with the Commission logging more than 10,000 slamming complaints.⁷ In addition, in Connecticut, the state's own Department of Public Utility Control was itself a victim of slamming in 1996!⁸

These figures make it clear that interexchange carriers (IXCs) have taken advantage of their deregulated freedom and, instead of competing fairly, many simply switch consumers' long distance carriers without their express approval.⁹ In fact, on

⁴ Daniel, A Return to Written Consent: A Proposal to the FCC to Eliminate Slamming, 49 Fed. Com. L.J. 227, Nov. 1996, at 227.

⁵ Corcoran & Mills, Long Distance: When the "Slam" Isn't So Grand, Washington Post, Mar. 4, 1995, at D1, D7.

⁶ Naik, "Slamming" Scourge: Stealing of Customers Spread With Resellers of Telephone Service, Wall St. J., July 26, 1995, at A1.

⁷ Gilgogg, It's Your Money. More Than Just a Contest: Stop a Slammer With a Freeze, Newsday, Apr. 28, 1996, at F3.

⁸ Even DPUC Gets Snookered, CT Post, Dec. 17, 1996, at C1.

⁹ Daniel, at 228-29.

January 23, 1996, the Commission proposed fines against AT&T and MCI for switching consumers to their service without their approval. Both AT&T and MCI have been accused of slamming since the early 1990s.¹⁰

A PIC freeze is a service offered by LECs which allows customers to place a freeze on their lines so that PIC changes cannot be processed without specific authorization directly from the customer. In 1990, SNET began offering PIC freezes to its customers as a means to protect their interstate long distance service.¹¹ Due to the significant increase in slamming complaints over the past several years, SNET has recently begun to actively market this offering in order to protect customers from these unauthorized PIC changes. It is important to note that Carrier Choice Protection is an optional service, and is available to customers of any IXC, not just SNET long distance customers. It is also important to note that, when SNET instituted its PIC freeze option in 1990, the intrastate market in Connecticut was not yet open to competition. SNET began offering Carrier Choice Protection simply because customers wanted the service in order to protect their interstate service against slamming.¹²

¹⁰ See Common Carrier Bureau Finds Five Companies Apparently Liable for Forfeiture for Slamming, Jan. 23, 1996, 1996 FCC Lexis 219; FCC Proposes Fining MCI and AT&T for "Slamming." Wall St. J., Jan. 24, 1996, at 8.

¹¹ SNET markets its PIC freeze service, known as Carrier Choice Protection, to its long distance customers. Carrier Choice Protection is optional and is not a condition of SNET All Distance service.

¹² Customers felt powerless against these unauthorized PIC changes. Increased demand grew for a service that would provide protection to the customer's choice of IXC. Today, customers still desire such protection, as evidenced by a recent letter to the editor of a Connecticut newspaper which expresses one customer's frustration at being slammed and praises SNET's PIC freeze option as a way to protect customer choice (see Attachment A).

II. PIC FREEZES SERVE AN IMPORTANT PUBLIC INTEREST BY PROTECTING CONSUMERS FROM UNAUTHORIZED PIC CHANGES.

The significant rise in the number of unauthorized PIC changes by IXCs over the past few years has created a need to protect consumers from this phenomenon of slamming. PIC freezes serve this need by prohibiting a carrier from changing a customer's long distance carrier without the express permission of the customer. PIC freezes, therefore, serve an important public interest. In fact, the Commission itself has identified PIC freezes as a method to prevent slamming and "encourage[s] entities such as LECs to take additional steps that might help reduce slamming in their service area."¹³ In addition, the Connecticut Department of Public Utility Control has stated that it recommends that consumers utilize PIC freezes to ward off slamming, a practice about which the Department is very concerned.¹⁴

The Commission has also ruled that other similar PIC change verification procedures employed by LECs are important means of protecting customers from slamming. In RCI Long Distance, Inc. v. New York Telephone Co., et al.,¹⁵ the Commission ruled that the PIC change procedures used by NYNEX and Bell Atlantic regarding payphones do not violate the Communications Act of 1934, as amended, or the Commission's PIC change rules or order. Specifically, in order to reduce the number of unauthorized PIC changes, NYNEX would not accept automated PIC changes for its payphones, and required IXCs to forward PIC changes via mail or fax for manual

¹³ Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Report and Order, 10 FCC Red 9560, 9574 n. 58 (1995).

¹⁴ See MCI Demands Probe of SNET Practice, New Haven Register, March 21, 1997, at D1, D5. In addition, the DPUC stated that although it is more difficult to switch carriers, once a PIC freeze is in place, "the protection from slamming is worth the inconvenience." *Id.* at D1.

¹⁵ 11 FCC Red 8090 (July 11, 1996).

processing by NYNEX. In addition, NYNEX contacted payphone customers directly to confirm that a PIC change was in fact authorized.¹⁶ Likewise, Bell Atlantic required IXCs to submit PIC change requests for payphones either by mail or fax (subject to telephonic confirmation between Bell Atlantic and the customer), or by initiating a three-way call among the customer, the IXC and Bell Atlantic, in order to obtain the customer's verbal confirmation.¹⁷

In the RCI case, the Commission held that the PIC change practices employed by NYNEX and Bell Atlantic were consistent with both the Act and the Commission's rules and were, in fact, necessary to protect customers against slamming. Further, the Commission noted that, contrary to RCI's allegations, the defendants had not improperly supplemented the Commission's PIC change verification procedures with additional requirements.¹⁸ The Commission reasoned that its PIC change verification procedures "control the IXC's behavior during the telemarketing process (i.e., before the IXC submits its PIC change requests to the LEC). In contrast, defendants' internal processing procedures govern the relationship between IXCs and the LECs after an IXC has had the opportunity to confirm the validity of a payphone subscriber's PIC change via one of the four verification options [prescribed by the Commission]."¹⁹ Thus, the procedures employed by NYNEX and Bell Atlantic do not add to the Commission's rules governing

¹⁶ *Id.* at 8092.

¹⁷ *Id.* at 8092-93.

¹⁸ *Id.* at 8097.

¹⁹ *Id.*

the IXC's relationship with its subscribers, but rather, the procedures serve to confirm that the IXC has actually complied with the Commission's rules in the first place.²⁰

Furthermore, the Commission stated that NYNEX and Bell Atlantic have a "general obligation to protect their customers from fraud and other deceptive or misleading practices that could adversely affect their telephone service."²¹ Indeed, SNET instituted its PIC freeze option in an effort to fulfill this obligation to its customers and provide them the means to protect their service from unauthorized PIC changes.

III. PIC FREEZES DO NOT IMPEDE COMPETITION.

Contrary to MCI's assertions, PIC freezes do not impede competition. The PIC freeze does not deny customers the right to switch carriers. It simply prevents a carrier from slamming a customer in violation of the Commission's rules. Customers can still effect a PIC change if they so desire. They simply need to provide their LEC with express authorization to implement the change. Once this authorization is received, the LEC then changes the customer's PIC.

In fact, the experience in the Connecticut telecommunications market provides clear evidence that PIC freezes do not impede competition. For instance, SNET instituted PIC freezes *prior* to instate equal access. Now that the state is 100% converted to equal access and the market is wide open, the instate toll market is so competitive that the Connecticut Department of Public Utility Control has found the instate toll product to be

²⁰ *Id.* at 8097-98.

²¹ *Id.* at 8098.

fully competitive under Connecticut law.²² Clearly, competition in Connecticut has flourished and has not, in any way, been impeded by SNET's PIC freeze option.

Furthermore, MCI's assertions that LECs misuse PIC freezes in order to refuse to implement customers' requests to change carriers is simply untrue. SNET has never refused to implement a PIC change once it has received express authorization from the customer to do so. MCI has not presented, and indeed can not present, any evidence to show that LECs abuse the PIC freeze in such a manner.

IV. SNET'S DIRECT MAIL SOLICITATION REGARDING CARRIER CHOICE PROTECTION IS NOT MISLEADING.

Contrary to MCI's allegations, SNET's direct mail solicitation regarding Carrier Choice Protection is not misleading. The solicitation clearly states that the customer's SNET long distance lines will not be switched unless the customer gives his *express written or verbal consent*. It is clear, therefore, that SNET's PIC freeze authorization fully apprises the customer of what action must be taken should the customer later decide to switch carriers.

V. THE RULES PROPOSED BY MCI IN ITS PETITION ARE UNNECESSARY.

The rules proposed by MCI in its Petition for Rulemaking are unnecessary, as Section 258 of the 1996 Act mandates that the Commission establish rules regarding slamming and related issues. Thus, MCI's Petition for Rulemaking is premature and

²² See decision dated November 27, 1996 in Docket No. 96-06-23, Application of SNET for Approval to Reclassify Message Toll Service from the Non-Competitive Category to Competitive.

should be dismissed. In any event, the rules proposed by MCI are unnecessary and should not be adopted by the Commission.

Specifically, the first rule proposed by MCI²³ clearly contravenes the intent of the Commission, as expressed in its Report and Order on Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers.²⁴ As mentioned previously, in that order the Commission identified PIC freezes as an important tool to prevent slamming. MCI's proposed rule would prohibit LECs from employing and soliciting PIC freezes. As described above, the PIC freeze is an important tool necessary to protect consumers against the increasingly prevalent phenomenon of slamming. In addition, PIC freezes do not impede competition and are, in fact, a response to a demonstrated customer need.

The second rule proposed by MCI, specifically proposed section 64.1200(b)(3), is also unacceptable. This rule would require carriers offering PIC freezes to furnish, upon request (and update electronically on a daily basis) to any carrier, the name and telephone number of *all* consumers who have PIC freezes on their accounts. This proposed rule clearly violates the privacy rights of customers and their expectation that such information, voluntarily given by customers to LECs in an effort to protect their long distance service, will not be furnished to other carriers. It is such privacy interests that are protected by the intent of the Act and should not, therefore, be violated in the context of PIC freeze requests. In addition, implementation of this rule would permit abuse of

²³ Proposed section 64.1200(a).

²⁴ 10 FCC Red 9560, 9574 n. 58 (1995).

customer information for marketing or other purposes, in violation of the Commission's rules.

Finally, section 64.1200(b)(4) of MCI's proposed rules is completely unnecessary. This section would require that carriers offering PIC freezes "co-operate with other carriers and affected consumers" to remove an existing PIC freeze so that a new carrier can replace a current carrier as promptly as possible. This is exactly what SNET does today. As mentioned previously, once SNET receives a customer's express authorization to change carriers, SNET promptly removes the PIC freeze and implements the requested change. With regard to PIC changes and PIC freeze removals, SNET has fully cooperated with other carriers and with all affected consumers, and will continue to do so in the future.

VI. CONCLUSION

PIC freezes serve to protect customers' carrier choice while allowing carriers to submit authorized changes to LECs. As described above, LECs' PIC freeze practices are reasonable, further the public interest, do not impede competition and do not violate the provisions of either the Communications Act of 1934, as amended, or the Telecommunications Act of 1996. The 1996 Act mandates that the Commission establish rules regarding slamming and related issues. Thus, MCI's Petition for Rulemaking should be dismissed and the Commission should consider the issue of PIC freezes as part of its overall consideration of slamming issues pursuant to the Act. In any event, the

rules proposed by MCI are unnecessary and should not be adopted by the Commission.

Respectfully submitted,

THE SOUTHERN NEW ENGLAND
TELEPHONE COMPANY

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June 4, 1997

Phone company 'slamming' should be illegal

I have been a customer of Sprint since the company came into business, and have been very satisfied with their service. However, imagine my surprise upon opening my telephone bill to see that I had been "slammed" and switched to AT&T - not once, but twice.

I contacted the Public Utilities Commission and my congressmen, as well as both telephone companies. I was informed that the only way to stop slamming was to have

a "pick freeze" put on my service with SNET. Then no one could change me unless I was contacted first to request my permission.

Because of the slamming and the change of my carrier, I could have lost my Sprint priority points. Due to the circumstances, however, Sprint gave them back to me.

I believe that the customer should have the right to choose which ever telephone company he or she prefers. Slamming should

be against the law. It is a very wrong way to get business.

I commend SNET for having the "pick freeze" option. This does not mean you cannot choose your carrier; it says, rather, that once you pick your carrier, you cannot be arbitrarily changed without your permission.

I believe this is the American way: freedom of choice.

Ann Lois Stoddard
Branford

New Haven Register
May 23, 1997
Page A10
(Letter to Editor)



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Policies and Rules Pertaining)
to Local Exchange Carrier)
"Freezes" on Consumer Choices) File No. CCB/CPD 97-19
of Primary Local Exchange or)
Interexchange Carriers)
)
MCI Telecommunications Corp.)
Petition for Rulemaking)

AT&T COMMENTS

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, and the Commission's May 5, 1997 Public Notice (DA 97-942), AT&T Corp. ("AT&T") submits these comments on the above-captioned petition by MCI Telecommunications Corp. ("MCI"), requesting that the Commission institute a rulemaking to regulate the solicitation of carrier selection "freezes" by local exchange carriers ("LECs"). As MCI's petition convincingly demonstrates, there is an urgent need for the Commission to prevent LEC misuse of the freeze mechanism to throttle incipient competition in the intraLATA toll and local markets, and to leverage the LECs' local exchange monopolies as those carriers seek to enter the competitive interexchange marketplace.

Carrier selection freezes were originally developed by the LECs as a means of controlling

"slamming," the unauthorized changing of an end user's primary interexchange carrier ("PIC"). By requesting a carrier selection freeze on their service, end users could instruct their LEC not to implement a change in their designated interexchange carrier ("IXC") unless the LEC is expressly authorized to do so, either orally or in writing, by the end user. In the absence of such express customer authorization, primary interexchange carrier ("PIC") changes submitted directly to the LEC by an IXC would be rejected. With the advent of intraLATA toll and local competition, the freeze procedure now may also be applied by LECs to those carrier selections.

When impartially implemented, the freeze mechanism can provide a useful adjunct to other regulatory compliance and enforcement procedures for controlling slamming. AT&T has long supported the availability of carrier freezes for this purpose; indeed, as early as 1990, AT&T proposed that LECs be required to offer a PIC freeze option to end users as a consumer protection measure.

However, recent experience shows that LECs are now extensively misusing the carrier freeze procedure in order to advantage themselves when entering the interexchange marketplace, and to further entrench their own intraLATA toll and local service monopolies against new entrants. This serious anticompetitive potential was not present when the freeze procedure was first adopted,

because the largest LECs did not then operate in the interexchange services market, and competition in the provision of intraLATA and local service was largely foreclosed by regulatory fiat. The current and anticipated changes in industry structure wrought by the Telecommunications Act of 1996 have irretrievably altered the incentives for LECs to implement carrier freezes in a neutral and unbiased manner.

For example, as MCI points out (p. 5), some LECs have offered PIC freeze mechanisms to end users without disclosing that their selection of this option for their preferred IXC would also freeze the customers' selections of an intraLATA toll and local carrier. Especially when implemented by LECs immediately prior to the availability of intraLATA presubscription, such "account level" freezes have had a clear anticompetitive purpose and effect.¹

¹ See, e.g., Sprint Communications Co., L.P. v. Ameritech Michigan, Case No U-11038, 117 P.U.R.4th 429 (1996). There, the Michigan Public Utility Commission ("PUC") found a bill insert by Ameritech, promoting account level carrier selection freezes, mailed just as intraLATA presubscription was being introduced, was misleading and anticompetitive. The PUC restricted application of the freeze mechanism to interLATA selections only until six months after Ameritech mailed a corrective bill insert to subscribers. The Illinois Commerce Commission likewise found unlawful Ameritech's identical conduct in that state. See MCI Telecommunications Corp. v. Illinois Bell Tel. Co., Case No. 96-0075, Order, April 13, 1996 ("ICC Order").

Additionally, many LECs' procedures make it extremely difficult for customers, once they have elected a freeze option, to remove a carrier selection freeze or to designate a new IXC or intraLATA carrier when there is already a carrier selection freeze in place. Some LECs, such as the GTE operating companies, require customers to request a frozen PIC change in writing, using special forms available only from the LEC, and refuse to allow IXCs to provide copies of those forms to customers who wish to change their carrier. Even in instances where LECs allow oral customer authorization of a frozen PIC change, end users face serious obstacles because LECs either have refused to accept three-way calls between end users, their new carrier and the LEC, or have provided inadequate capacity to process those calls without long delays.²

Moreover, LECs appear to have misled or confused customers to adopt PIC freezes without understanding the consequences of their actions or the implications of that option for future carrier selection.

² Moreover, in most cases LECs offer facilities and personnel to process three-way calls only during normal business hours, when it is often difficult or impossible for IXCs to reach residential customers to establish those calls. Even where IXCs succeed in establishing such calls, LEC business office representatives have frequently misused those contacts to market their own competing interexchange, intraLATA or local services, instead of simply processing the customers' carrier selection changes.

changes. In particular, AT&T has experienced an exceptionally high level of carrier change rejections in Southern New England Telephone Company's ("SNET's") service territory, amounting to three times the national rate.³ Subsequent surveys by AT&T of the affected customers have disclosed that the end users were either unaware of, or denied, having authorized freezing their carrier selections. Both MCI and AT&T have already initiated legal action against SNET for this and other related misuse of the carrier freeze mechanism.⁴

These widespread LEC abuses demonstrate the urgent need for the Commission to protect competition in interexchange, intraLATA and local services by adopting market rules that will assure consumers receive complete and accurate information about the consequences of selecting a carrier freeze option, and the means for changing their preferred carrier once a freeze option has been implemented. AT&T suggests that the Commission

³ Rejections of carrier change orders submitted by AT&T due to PIC freezes average about 7 percent nationwide, while in SNET's service area the rejection rate on this basis has amounted to 21 percent of the PIC changes submitted. See Letter dated April 9, 1997 from Mark C. Rosenblum, AT&T, to Regina M. Keeney, FCC, at p. 3 n.1.

⁴ See MCI Telecommunications Corp. v. Southern New England Tel. Co., et al., Civil Action No. _____, (D. Conn.), filed April 29, 1997; AT&T Corp. v. Southern New England Tel. Co., et al., No. 397CV01056 (JBA), (D. Conn.), filed May 30, 1997.

include the following minimum requirements for such regulations:

(a) Incumbent LECs ("ILECs") should be prohibited from affirmatively marketing intraLATA carrier selection freezes to their customers until at least one year after the ILEC has fully implemented intraLATA toll dialing parity throughout its service territory in a state. This limitation will assure that ILECs do not use the freeze option to overhang the intraLATA toll market by prematurely restricting customers' ability to effectuate changes in their intraLATA carrier selection. Any intraLATA carrier freezes that have already been implemented before the availability of such dialing parity should be promptly removed.⁵

(b) So long as they remain classified as dominant carriers, ILECs should also be prohibited from implementing local carrier selection freezes. Such a prohibition is required to assure that these carriers do not abuse their undisputed market power to throttle nascent local competition by new entrants.

(c) All carrier selection freezes should be administered at the service level (i.e., interLATA, intraLATA or local) for each working telephone number in customer's account. The Commission should prohibit both

⁵ See ICC Order (prohibiting Ameritech from applying intraLATA carrier freeze until six months after availability of intraLATA presubscription).